

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG

DARREN OLIVER ROBINSON,

Petitioner,

v.

Civil Action No. 3:08CV184
Crim. Action No. 3:04CR52
(BAILEY)

UNITED STATES OF AMERICA,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge David J. Joel. Pursuant to Local Rule, this action was referred to Magistrate Judge Joel for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Joel filed his R & R on August 18, 2010 [Crim. Doc. 101 / Civil Doc. 3]. In that filing, the magistrate judge recommended that this Court deny the petitioner's § 2255 with prejudice and dismiss it from the docket.

Pursuant to 28 U.S.C. § 636 (b) (1) (c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, this Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo*

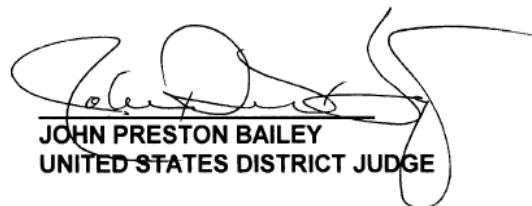
review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); ***Snyder v. Ridenour***, 889 F.2d 1363, 1366 (4th Cir. 1989); ***United States v. Schronce***, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Joel's R & R were due within fourteen (14) days of filing of the same, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The docket reflects that the petitioner accepted service on August 20, 2010. See Doc. 103. To date, no objections to the R & R have been filed. Accordingly, this Court will review the report and recommendation for clear error.

Accordingly, upon careful review of the report and recommendation [Doc. 101], it is the opinion of this Court that the Magistrate Judge's **Report and Recommendation [Crim. Doc. 101 / Civil Doc. 3]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. As such, the § 2255 Motion to Vacate, Set Aside, or Correct Sentence **[Crim. Doc. 77 / Civil Doc. 1]** is **DENIED with prejudice**, and this matter is hereby **ORDERED STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* petitioner.

DATED: September 13, 2010.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE